

Agenda Item No. 8A

**Meeting of the Reclamation Board
April 18, 2008
Board Staff Report
Cooperation Agreement Among
The Central Valley Flood Protection Board, Yuba County, Three Rivers Levee
Improvement Authority, and Reclamation District 784**

Item

Consider approval of a Cooperation Agreement among the Board, Three Rivers Levee Improvement Authority, Yuba County and Reclamation District No. 784.

Project

Three Rivers Levee Improvement Authority, Phase 4 - Feather River Levee Repair Project, Segment 2 Feather River Setback Levee. The project is located in Yuba County, south of the City of Marysville, and west of Highway 70.

Description

The Board approved Permit No. 18227 at the March 21, 2008 meeting. Condition 13 of the permit requires that a Cooperation Agreement be executed among Three Rivers Levee Improvement Authority, Yuba County, Reclamation District 784, and the Board prior to construction of Part B phase of the project. This Agreement will provide assurances from the local sponsors to operate and maintain the completed project and to hold harmless and indemnify the Board and the State of California.

Staff Recommendation

Staff recommends that the Board approve the attached Cooperation Agreement among the Board, Three Rivers Levee Improvement Authority, Yuba County, and Reclamation District 784.

Exhibits

- Exhibit 1 - Cooperation Agreement
- Exhibit 2 - Permit No. 18227

COOPERATION AGREEMENT
BETWEEN
THE CENTRAL VALLEY FLOOD PROTECTION BOARD
AND
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY,
COUNTY OF YUBA, AND
RECLAMATION DISTRICT NO. 784
FOR MODIFICATION OF THE FEDERAL PROJECT LEVEES
ON THE FEATHER RIVER

THIS AGREEMENT is entered into this _____ day of _____, 2008, by and between the Central Valley Flood Protection Board (hereinafter "Board"), the Three Rivers Levee Improvement Authority (hereinafter "Three Rivers"), the County of Yuba (hereinafter "County") and Reclamation District No. 784 (hereinafter "District").

WHEREAS, the County and District are member agencies of Three Rivers (hereinafter collectively "Local Sponsors"); and

WHEREAS, Three Rivers has requested that the Board approve a project to modify a portion of the Sacramento River Flood Control Project

WHEREAS, Three Rivers has requested that the Board request permission of the United States Department of the Army (hereinafter Government) for permission to alter a portion of the Sacramento River Flood Control Project; and

WHEREAS, in order for the Board to give assurances of indemnification for and operation and maintenance of the project required by and satisfactory to the Government, the Board requires that the Local Sponsors satisfy certain criteria which are addressed by this Agreement; and

WHEREAS, the Board and the Local Sponsors have the power and authority to do all things required of each of them, as specified below.

NOW, THEREFORE, IT IS HEREBY AGREED:

SECTION I: Definitions

"Project" shall mean modifications to Segment 2 of the Feather River left bank levee (PLM 17.1 to PLM 23.3 Feather River. The project consists of constructing 5.7 miles of setback levee approximately half a mile to the east of the existing levee, a new Pump Station No. 3, a toe ditch, and stability berms. Cutoff walls will be constructed in the new levee where underseepage and stability analyses identified the need, as described in Board Permit No. 18227BD.

"Completion of the Project" shall occur when, upon completion of the Project works by the Local Sponsor, the Government formally accepts and designates Project facilities as a federal project.

SECTION II: Obligations of the Board and the Local Sponsors

- A. The Board shall request approval from the Corps of Engineers for modification of a federal flood control project for all work of the Project to proceed.
- B. Upon Completion of the Project the Board shall provide the assurance of nonfederal cooperation required by the Government for the Project.
- C. As more fully provided in Section III below, the District shall operate, maintain, repair, replace, and rehabilitate the facilities and related features constructed as part of the Project.
- D. As more fully provided in Section IV below, the Local Sponsors shall hold and save the State and the United States free from damages.
- E. If requested by the Board, the Local Sponsors shall assign and record fee title or easements, as appropriate, for all parcels obtained for the Project in the name of the Sacramento and San Joaquin Drainage District. The Board shall ensure that the Local Sponsor is able to maintain the Project, including any environmental mitigation, restoration, and enhancement by, as needed, either granting an easement for operation and maintenance to the Local Sponsors or its designees, or entering into a joint-use agreement with the Local Sponsors or their designees.

SECTION III: Obligations to Operate, Maintain, Repair, Replace and Rehabilitate

- A. Upon Completion of the Project or any functional portion thereof as determined by the Government, the Board shall turn the completed Project over to the District for operation and maintenance. The turnover shall be accompanied by a copy of the Government's Interim Manual for the Operation, Maintenance, Repair, Replacement and Rehabilitation of the Project.
- B. If the District has failed or refused to perform the obligations set forth in this Section and that failure or refusal constitutes, in the opinion of the Government or the Board, a threat to the continued ability of that unit of the Project to meet design specifications or the requirement of the Manual, then the Board or Government may perform the necessary work either with their own forces or by contract.
- C. Nothing in this Agreement shall prohibit the Local Sponsors from contracting with another public agency to perform the actual operation, maintenance, repair, replacement and rehabilitation required under this Section, nor from assigning this Agreement to another public agency if approved by the Board.

SECTION IV: Indemnification

Three Rivers, County, and District shall each hold, defend, indemnify and save the State and the Board, their officers, agents, and employees, and successors or assigns, to the extent allowed by State law, free and harmless from any and all claims or damages arising out of the Project, including any responsibility for claims or damages arising out of work performed by the Government. Three

Rivers, County, and District each agrees that it will levy and collect assessments or user charges as may be necessary and permissible under State law to satisfy its obligations to the State and the Board as required by this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE CENTRAL VALLEY FLOOD
PROTECTION BOARD OF THE
STATE OF CALIFORNIA

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

By _____
Benjamin Carter, President

By _____
Virginia A. Cahill, Deputy Attorney General

Date _____

Date _____

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

By _____
Paul Brunner, Executive Director

By _____
Scott Shapiro, Special Counsel

Date _____

Date _____

COUNTY OF YUBA

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

By _____

By _____

Date _____

Date _____

RECLAMATION DISTRICT 784

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

By _____

By _____

Date _____

Date _____

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18227 BD

This Permit is issued to:

Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, California 95901

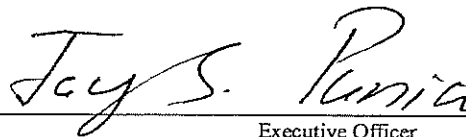
To use phased construction - Part A: To construct all elements of a 5.7 mile long backup levee approximately 0.5 miles to the east of the existing east (left) bank levee of the Feather River except (i) those elements requiring a 404 permit from the U.S. Army Corps of Engineers (Corps), and (ii) those elements requiring Section 408 approval from the Corps (the tie-ins). Part B: To construct the remaining elements of a 5.7 mile long levee not addressed in Part A above, including: (i) those elements requiring a 404 permit from the U.S. Army Corps of Engineers, and (ii) those elements requiring Section 408 approval from the Corps (the tie-ins). The project is located south of Marysville and west of Highway 70 (Section 13,14,24,25, T13&14, R3&4E, MDB&M, Reclamation District 784, Feather River, Yuba County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project described above.

(SEAL)

APR -7 2008

Dated: _____



Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any

other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and the Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of the Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 day's notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by the Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of the Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18227 BD

THIRTEEN: No construction under Part B shall occur until a Cooperation Agreement for the project that provides local assurances to operate and maintain the completed project and to hold harmless and indemnify the Board and State of California satisfactory to the Board, is executed among the Board, Three Rivers Levee Improvement Authority, Reclamation District 784, and Yuba County.

FOURTEEN: No construction under Part B of this permit shall occur until the Army Corps of Engineers approves Part B under 33 USC Section 408. The approval letter shall be incorporated into this permit as Exhibit A and all conditions from Section 408 approval provided by the Corps of Engineers shall be incorporated into this permit as if fully set forth herein if they are not in conflict with the Central Valley Flood Protection Board's regulations (Title 23 California Code of Regulations).

FIFTEEN: No work under Part A or Part B authorized by this permit shall be performed until the Central Valley Flood Protection Board and Department of Water Resources have received, reviewed, and approved in writing, a complete set of final submitted plans, drawings, and specifications for the project. The Central Valley Flood Protection Board shall have up to 30 days after receipt of plans, drawings, and specifications for the review process. The Central Valley Flood Protection Board and/or the Department of Water Resources may extend this review period up to 15 days by written notification.

SIXTEEN: All addendums or other changes made to the submitted documents by the permittee after issuance of this permit are subject to submittal and review for approval by the Central Valley Flood Protection Board prior to incorporation into the permitted project. Upon review and approval of any new submitted documents the permit shall be revised, if needed, prior to construction related to the proposed changes. The Central Valley Flood Protection Board shall have up to 30 days after receipt of any documents, plans, drawings and specifications for the review process. The Central Valley Flood Protection Board may extend this review period up to 15 days by written notification.

SEVENTEEN: The mitigation measures approved by the permittee and found in its Mitigation and Monitoring Reporting Plan (MMRP) are made a condition of this permit. The permittee shall implement all such mitigation measures. However, the measures in the MMRP may be modified to accommodate changed circumstances or new information not triggering the need for subsequent or supplemental analysis under CEQA Guidelines sections 15062 or 15063 with advance notice of the proposed changes and submittal of supporting documentation for review and comment to the Staff Environmental Scientist of the Central Valley Flood Protection Board.

EIGHTEEN: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated December 11, 2007, which is attached to this permit as Exhibit B and is incorporated by reference.

NINETEEN: Within three years from completion of the construction of the work authorized under this permit, the permittee shall provide the Sacramento and San Joaquin Drainage District, acting by and through the Central Valley Flood Protection Board of the State of California, a fee interest or a permanent easement granting all flood control rights upon, over and across the property to be occupied by the existing or to-be-constructed levee and to-be-reconstructed levee, including the area of the backup levee, cutoff walls and the tie-ins to the existing federal project levees. The easement must include the area within the floodway, the levee section, and the area within fifty (50) feet in width adjacent to the landward levee toe if the area is not presently encumbered by a Central Valley Flood Protection Board easement. For information regarding existing Central Valley flood Protection Board easements, please contact Linus Paulus at (916) 653-3947. The permittee shall consult with the Board prior to executing farming leases for lands located within the setback area.

TWENTY: For work proposed on land owned in fee or easement by Reclamation District No. 784, the permittee may be required to secure an easement, license, or permit from the District prior to commencement of work.

TWENTY-ONE: All work approved by this permit shall be in accordance with the final (100%) submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in areas under the jurisdiction of the Board without prior approval of the Central Valley Flood Protection Board.

TWENTY-TWO: Prior to commencement of work under Part B, the permittee shall create a photo record, including associated descriptions, of existing levee conditions. The photo record shall be certified (signed and stamped) by a licensed land surveyor or professional engineer registered in the State of California and submitted to the Central Valley Flood Protection Board within 30 days of beginning the project.

TWENTY-THREE: Upon completion of the project, the permittee shall perform a levee crown profile

survey and create a photo record, including associated descriptions, of "as-built" levee conditions. The levee crown profile survey and photo record shall be certified (signed and stamped) by a licensed land survey or professional engineer registered in the State of California and submitted to the Central Valley Flood Control Board within 120 days of project completion.

TWENTY-FOUR: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources, Reclamation District No. 784 or any other agency responsible for maintenance.

TWENTY-FIVE: The permittee shall contact the Department of Water Resources by telephone, (916) 574-1213, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

TWENTY-SIX: Prior to starting construction under this permit, the permittee shall contact the Department of Water Resources regarding inspection of the project during construction.

TWENTY-SEVEN: The permittee shall provide supervision and inspection services acceptable to the Central Valley Flood Protection Board.

TWENTY-EIGHT: Within 120 days of completion of the project, the permittee shall submit to the Central Valley Flood Protection Board a certification report, stamped and signed by a professional engineer registered in the State of California, certifying the work was inspected and performed in accordance with the Central Valley Flood Protection Board permit conditions and submitted drawings and specifications.

TWENTY-NINE: Within 120 days of completion of the project, the permittee shall submit to the Central Valley Flood Protection Board proposed revisions to the Corps of Engineers, Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit 145, Part 1 and the associated "as-built" drawings for system alterations approved by this permit that are to be incorporated into the federal Sacramento River Flood Control Project.

THIRTY: If FEMA certification of the levee by the Corps of Engineers is being considered, the project proponent should contact the U. S. Army Corps of Engineers regarding inspection of the project during construction for FEMA certification purposes.

THIRTY-ONE: The permittee shall contact the U. S. Army Corps of Engineers regarding inspection of the project during construction as the proposed work is an alteration to the existing Federal Flood Control Project that will be incorporated into the Sacramento River Flood Control Project, an adopted plan of flood control.

THIRTY-TWO: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

THIRTY-THREE: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood

control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense. Applies to Part B and also Part A after its adoption into the State Plan of Flood Control as a setback levee.

THIRTY-FOUR: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

THIRTY-FIVE: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

THIRTY-SIX: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend and hold harmless the State of California, or any departments thereof, from any liability or claims of liability associated therewith.

THIRTY-SEVEN: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

THIRTY-EIGHT: Upon completion of the project, the permittee shall submit as-built drawings to: Department of Water Resources, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite LL30, Sacramento, California 95821.

THIRTY-NINE: No construction work of any kind shall be done in the floodway or on the project levees during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

FORTY: Cleared trees and brush shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to April 15.

FORTY-ONE: No material stockpiles, temporary buildings, or equipment shall remain in the floodway during the flood season from November 1 to April 15.

FORTY-TWO: The permitted encroachment(s) shall not interfere with operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee shall be required, at permittee's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board or Department of Water Resources. If the permittee does not comply, the Central Valley Flood Protection Board may modify or remove the encroachment(s) at the permittee's expense.

FORTY-THREE: During construction of the project, any and all anticipated or unanticipated conditions encountered which may impact levee integrity or flood control shall be brought to the attention of the Flood Project Inspector immediately and prior to continuation. Any encountered abandoned encroachments shall be completely removed or properly abandoned under the direction of the Flood Project Integrity and Inspection Branch Inspector.

FORTY-FOUR: The stability of the levee shall be maintained at all times during construction.

FORTY-FIVE: Excavations below the design flood plane and within the levee section or within 10 feet of the projected waterward and landward levee slopes shall have side slopes no steeper than 1 horizontal to 1 vertical. Flatter slopes may be required to ensure stability of the excavation.

FORTY-SIX: A profile of the levee crown roadway and access ramps that will be utilized for access to and from the borrow and project areas shall be submitted to the Central Valley Flood Protection Board prior to commencement of excavation.

FORTY-SEVEN: The haul ramps and utilized levee crown roadway shall be maintained in a manner prescribed by the authorized representative of the Department of Water Resources, Reclamation District No. 784 or any other agency responsible for maintenance.

FORTY-EIGHT: Any damage to the levee crown roadway or access ramps that will be utilized for access for this project shall be promptly repaired to the condition that existed prior to this project.

FORTY-NINE: Equipment used in the construction of the cutoff walls shall not exceed live-load surcharge to a level that causes or contributes to the instability of the levee during construction operations.

FIFTY: Fluid pressures in the cutoff wall construction zones shall be carefully monitored and controlled to minimize the potential for hydrofracturing.

FIFTY-ONE: The permittee shall be responsible for all damages due to settlement, consolidation, or heave from any construction-induced activities.

FIFTY-TWO: Excess bentonite or other cutoff wall fluids shall be properly disposed of outside of the floodway. The bentonite or other cutoff wall fluids shall not be used as backfill material for levee reconstruction.

FIFTY-THREE: All fencing, gates and signs removed during construction of this project shall be replaced in kind and at the original locations. If it is necessary to relocate any fence, gate or sign, the permittee is required to obtain written approval from the Central Valley Flood Protection Board prior to installation at a new location if not shown on the submitted drawings.

FIFTY-FOUR: All temporary fencing, gates and signs shall be removed upon completion of project.

FIFTY-FIVE: Any pipe or conduit being reinstalled in the levee section or within fifty (50) feet of both the waterward and landward levee toes shall meet Title 23 standards.

FIFTY-SIX: Fill on the levee slopes shall be keyed into the existing levee section with each lift.

FIFTY-SEVEN: Backfill material for excavations within the existing levee sections, the new levee and within fifty (50) feet of the levee toes of both levees shall be placed in 4- to 6-inch layers, moisture conditioned above optimum moisture content, and compacted to a minimum of 90 percent relative compaction as measured by ASTM Method D1557-91.

FIFTY-EIGHT: Density tests by a certified materials laboratory will be required to verify compaction of backfill within the levee section and within fifty (50) feet of the levee toes on both the existing and new levees.

FIFTY-NINE: Earthen material meeting the requirements designated in Condition Sixty-One shall be used when constructing the backup levee or reconstructing the degraded areas of the existing levees, and no cuts shall remain in the levee sections upon completion.

SIXTY: Fill material shall be placed only within the area indicated on the approved plans.

SIXTY-ONE: All fill material for constructing the new levee and for reconstructing the degraded levee sections shall be imported impervious material with 20 percent or more passing the No. 200 sieve, a plasticity index of 8 or more, and a liquid limit of less than 50 and free of lumps or stones exceeding 3 inches in greatest dimension, vegetative matter, or other unsatisfactory material.

SIXTY-TWO: The fill surface areas shall be graded to direct drainage away from the toes of the levees.

SIXTY-THREE: The slopes of the proposed and reconstructed levee sections shall be no steeper than 3 horizontal to 1 vertical on the water side and 2 horizontal to 1 vertical on the land side.

SIXTY-FOUR: The new and reconstructed crown roadway and access ramps shall be surfaced with a minimum of 4 inches of compacted, Class 2, aggregate base (Caltrans Specification 26-1.02A).

SIXTY-FIVE: Aggregate base material shall be compacted to a relative compaction of not less than 95 percent per ASTM Method D1557-91, with a moisture content sufficient to obtain the required compaction.

SIXTY-SIX: The project sites including the levee sections and access ramps shall be restored to at least the condition that existed prior to commencement of work and there shall be no visible trace of the cutoff walls.

SIXTY-SEVEN: All debris generated by this project shall be disposed of outside the floodway and off the levee sections.

SIXTY-EIGHT: The permittee shall replant or reseed the levee slopes to restore sod, grass, or other non-woody ground covers if damaged during project work.

SIXTY-NINE: In the event existing revetment on the channel banks or levee slopes is disturbed or displaced, it shall be restored to its original condition upon completion of the proposed installation.

SEVENTY: In the event that levee or bank erosion injurious to the adopted plan of flood control occurs at or adjacent to the permitted encroachment(s), the permittee shall repair the eroded area and propose measures, to be approved by the Central Valley Flood Protection Board, to prevent further erosion.

SEVENTY-ONE: No material, other than temporary materials during construction, shall be stockpiled

closer than 50 feet from the landward toe of the project or new levees.

SEVENTY-TWO: Any damage caused to the levee during placement or removal of the stockpiled material shall be repaired.

SEVENTY-THREE: All reconstructed and new pipelines shall be tested and confirmed free of leaks by X-ray, pressure tests, or other approved methods during construction or anytime after construction upon request by the Central Valley Flood Protection Board.

SEVENTY-FOUR: All abandoned piping and conduits shall be removed from the levee section and areas encompassed by the easements as defined by this permit.

SEVENTY-FIVE: Any additional encroachment(s) in the floodway, on or in the levee section and within fifty (50) feet of the landward levee toe by the permittee or other parties require an approved permit from the Central Valley Flood Protection Board.

SEVENTY-SIX: By acceptance of this permit, the permittee acknowledges the authority of the Central Valley Flood Control Board to regulate all future encroachments along this levee reach including those that may encroach upon alterations approved by this permit prior to incorporation into the federal Sacramento River Flood Control Project by the Corps of Engineers.

SEVENTY-SEVEN: If the permittee or successor does not comply with the conditions of this permit and an enforcement by the Central Valley Flood Protection Board is required, the permittee or successor shall be responsible for bearing all costs associated with the enforcement action, including reasonable attorney's fees.

SEVENTY-EIGHT: The permittee acknowledges that some portions of the levee may be overbuilt to account for settlement and that upon adoption of the updated Central Valley Flood Management Plan the permittee shall perform a levee crown profile survey of all levee crown covered by this permit and said profile shall be compared to the levee crown profile adopted in the updated Central Valley Flood Management Plan. The permittee shall ensure that the levee crown does not exceed the updated Central Valley Flood Management Plan profile.



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922
DEC 11 2007

REPLY TO
ATTENTION OF

Navigation and Flood Control Unit (18227)

Mr. Jay Punia, General Manager
The Reclamation Board
State of California
3310 El Camino Ave., Rm. LL40
Sacramento, California 95821

Dear Mr. Punia:

We have reviewed an application for a permit by Reclamation District 784 (Reclamation Board Number 18227). These plans include degrading the existing project levee and constructing a 6.5 mile setback levee on the left (east) bank of the Feather River. A previous letter to you dated September 20, 2007 commented on the tie-in to the existing project levee. The project is located south of Marysville and west of Highway 70 in Sections 13, 14, 24, and 25, Township 13 and 14 North, Range 3 and 4 East, M. D. B. & M. Survey, Yuba County, California.

The District Engineer has no objection to a conditional approval of this application by your Board from a flood control standpoint subject to the following conditions:

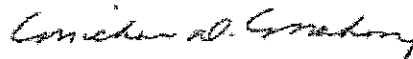
- a. That the permit shall be subject to HQ USACE issuing Section 408 approval. No construction shall be allowed until Section 408 approval is obtained. If HQ USACE disapproves the Section 408 request, the Reclamation Board shall notify the applicant that the conditional permit is no longer valid.
- b. That the proposed work shall not be performed during the flood season of November 1 to April 15, unless otherwise approved in writing by your Board.
- c. That areas to receive fill shall be cleared of any vegetation prior to fill placement.
- d. That in the event trees and brush are cleared, they shall be properly disposed of outside the limits of the project works.
- e. That the project levee section, floodway, and work area shall be restored to at least the same condition as existed prior to commencement of the proposed work.
- f. That the applicant shall repair any damage caused to the levee during placement of the fill.
- g. That the applicant shall use imported material for the fill.

h. That locations where borrow material is to be obtained be investigated to ensure they are not areas of historical seepage or boils and analyzed to ensure no adverse effect on the project levee.

Not enough information is provided to determine if there is a permit action under Section 10 and/or Section 404 permit process. Please advise the applicant to contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250.

If you have any questions concerning our comments on this permit application, please contact Ms. Meegan Nagy at (916) 557-7257 or Mr. Robert Murakami at (916) 557-6738.

Sincerely,



Michael D. Mahoney, P.E.
Chief, Construction-Operations Division

CF:

Mr. Jeremy Arrich, Chief, Flood Project Integrity and Inspection Branch,
3310 El Camino Avenue, Suite LL30, Sacramento, CA 95821